

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE ROWE PLASTIC SURGERY LITIGATION,

22-CV-7900 (JLR) (OTW)  
22-CV-8713 (JLR) (OTW)  
22-CV-9328 (JPC) (OTW)  
22-CV-9427 (AT) (OTW)  
23-CV-1373 (MMG) (OTW)  
23-CV-6206 (SHS) (OTW)  
23-CV-7049 (JHR) (OTW)  
23-CV-8140 (JGK) (OTW)  
23-CV-8297 (LGS) (OTW)  
23-CV-8509 (SHS) (OTW)  
23-CV-8512 (ER) (OTW)  
23-CV-8514 (LJL) (OTW)  
23-CV-8504 (JLR) (OTW)

**ORDER**

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**ONA T. WANG, United States Magistrate Judge:**

These cases were stayed pending the Second Circuit’s decision in *Rowe Plastic Surgery of New Jersey, L.L.C. v. Aetna Life Insurance Co.*, No. 23-8083, 2024 WL 4315128 (2d Cir. Sept. 27, 2024) and also pending settlement discussions. The Court held a telephonic settlement call on November 21, 2024, aimed at a global resolution, which was not successful.

In the parties’ joint status letter (“JSL”) filed on October 11, 2024, (*see, e.g.*, Case No. 22-CV-7900, ECF 55), Plaintiffs requested leave to conduct targeted discovery to aid in drafting an Amended Complaint, which was denied by my October 22, 2024, order. (ECF 58). Also in the October 11 JSL, Defendant asserts that the Second Circuit’s decision in *Rowe Plastic Surgery of New Jersey, L.L.C.*, 2024 WL 4315128, clarifies the legal issues under consideration in the above captioned cases, and Defendant now seeks to proceed with motion practice in all cases in this

district. (ECF 58). The stays in these cases are lifted until **January 24, 2025**, for the following reasons.

**I. Cases With Fully Briefed Motions to Dismiss:**

**23-CV-6206 (SHS) (OTW), 23-CV-7049 (JHR) (OTW), 23-CV-8140 (JGK) (OTW), 23-CV-8504 (JLR) (OTW), and 23-CV-8509 (SHS) (OTW)<sup>1</sup>**

Defendant requests that “these cases ... proceed to be decided by the Court,” while Plaintiffs seek to amend their Complaints in light of the Second Circuit’s decision in *Rowe Plastic Surgery of New Jersey, L.L.C.*, 2024 WL 4315128. (ECF 55). The Court notes that in *Rowe v. Plastic Surgery of New Jersey, L.L.C. et al. v. Aetna Life Insurance Co.*, 23-CV-8529 (DLC), Judge Cote granted the defendant’s motion to dismiss and denied the plaintiffs’ request for leave to amend, noting that plaintiffs failed to explain “how the proposed amendment would cure any of the [First Amended Complaint’s] deficiencies.” (Case No. 23-CV-8529 (DLC), ECF 43). If Plaintiffs wish to amend their Complaints in light of the Second Circuit’s decision, they must (1) file a motion seeking leave and (2) explicitly address and distinguish the issues raised in Judge Cote’s denial of leave to amend in her case, including whether any estoppel applies to the parties or counsel in the above-captioned cases. Plaintiffs’ motion seeking leave to amend is due **December 20, 2024**. Defendant’s opposition, if any, is due **January 10, 2025**. Plaintiffs’ reply, if any, is due **January 24, 2025**. There will be no extensions.

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<sup>1</sup> Motions to dismiss are also fully briefed in Case Nos. 23-CV-8298 (CM), 23-CV-8527 (CM), and 23-CV-8532 (VSB), which have not been referred to me.

**II. Case No. 23-CV-8514 (LJL) (OTW)**

Defendant's motion to dismiss was filed on November 22, 2023. (ECF 23). Plaintiffs' opposition, if any, is due **January 10, 2025**. Defendant's reply, if any, is due **January 24, 2025**. There will be no extensions.

**III. Cases Stayed After Counsel Had Filed Pre-Motion Letters but Before A Motion To Dismiss Was Filed:  
23-CV-8297 (LGS) (OTW), 23-CV-8512 (ER) (OTW)**

Defendant's motion to dismiss is due **December 20, 2024**. Plaintiffs' opposition, if any, is due **January 10, 2025**. Defendant's reply, if any, is due **January 24, 2025**. There will be no extensions.

**IV. Cases Where an Answer Was Filed and Defendant Has Requested Expedited Motion Practice:  
22-CV-7900 (JLR) (OTW), 22-CV-8713 (JLR) (OTW), 22-CV-9328 (JPC) (OTW), 22-CV-9427 (AT) (OTW), and 23-CV-1373 (MMG) (OTW)**

Defendant's request for expedited motion practice is **GRANTED in part and DENIED in part**. The Court is hereby issuing Orders to Show Cause in the form attached hereto as Exhibit A, which will be filed separately in each of these five cases.

Nothing in this Order shall be construed to prevent or preclude any presiding district judge from shortening or otherwise modifying a deadline or process in this Order.

The Clerk of Court is respectfully directed to file this order in each of the above-captioned cases.

**SO ORDERED.**

Dated: December 9, 2024  
New York, New York

*s/ Ona T. Wang*

**Ona T. Wang**  
United States Magistrate Judge

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE ROWE PLASTIC SURGERY LITIGATION,

22-CV-7900 (JLR) (OTW)  
22-CV-8713 (JLR) (OTW)  
22-CV-9328 (JPC) (OTW)  
22-CV-9427 (AT) (OTW)  
23-CV-1373 (MMG) (OTW)

**ORDER TO SHOW CAUSE**

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**ONA T. WANG, United States Magistrate Judge:**

**WHEREAS**, Defendant has filed answers in the following cases: 22-CV-7900 (JLR) (OTW), (ECF 7); 22-CV-8713 (JLR) (OTW), (ECF 9); 22-CV-9328 (JPC) (OTW), (ECF 9); 22-CV-9427 (AT) (OTW), (ECF 11); and 23-CV-1373 (MMG) (OTW), (ECF 10).

**WHEREAS**, all of these cases were referred to me for General Pretrial Management.

**WHEREAS**, on December 22, 2023, the above-captioned cases were stayed pending the appeal of *Rowe Plastic Surgery of New Jersey, L.L.C. v. Aetna Life Insurance Co.* (See, e.g., Index No. 22-CV-7900, ECF 50).

**WHEREAS**, on September 27, 2024, the Second Circuit affirmed Judge Rakoff's decision to grant the defendant's motion to dismiss under Rule 12(b)(6). See *Rowe Plastic Surgery of New Jersey, L.L.C. v. Aetna Life Insurance Co.*, 23-8083, 2024 WL 4315128 (2d Cir. Sept. 27, 2024).

**WHEREAS**, on October 2, 2024, the Court extended the stay on the above-captioned cases until November 30, 2024.

**WHEREAS**, on October 11, 2024, the parties submitted a joint status letter wherein Plaintiffs requested leave to conduct targeted discovery to aid in drafting an Amended Complaint in response to the Second Circuit's decision and Defendant requested expedited motion practice for the five above-captioned cases where an answer has been filed.

**WHEREAS**, Plaintiff's request for expedited discovery was denied by my October 22, 2024, order. (*See, e.g.*, 23-CV-7900, ECF 58).

**WHEREAS**, on February 1, 2024, Judge Cote granted the defendant's motion to dismiss and denied the plaintiffs' request for leave to amend the complaint in Case No. 23-CV-8529 (DLC).

**NOW, THEREFORE**, Plaintiffs in the above-captioned cases are **ORDERED TO SHOW CAUSE**, in writing, filed on each respective docket by **January 10, 2025**, why (1) the above-captioned cases differ from and should not be dismissed considering the Second Circuit's decision in *Rowe Plastic Surgery of New Jersey, L.L.C. v. Aetna Life Insurance Co.*, 23-8083, 2024 WL 4315128 (2d Cir. Sept. 27, 2024); and (2) why the parties and/or counsel are not barred from seeking amendment in light of Judge Cote's decision in Case No. 23-CV-8529 (DLC).

The Clerk of Court is respectfully directed to file this order to show cause in each of the above-captioned cases.

**SO ORDERED.**

Dated: December 9, 2024  
New York, New York

s/ Ona T. Wang

**Ona T. Wang**  
United States Magistrate Judge